

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN LEE McCULLON,

Plaintiff,

v.

PATRICK WITHROW, *et al.*,

Defendants.

Case No. 2:21-cv-00378-JDP (PC)

ORDER DIRECTING PLAINTIFF TO FILE A
SIGNED COMPLAINT AND EITHER
SUBMIT AN APPLICATION TO PROCEED
IN FORMA PAUPERIS OR PAY THE
FILING FEE

Kevin McCullon is a county prisoner proceeding without counsel. This action was opened when he submitted to the court an unsigned complaint. ECF No. 1. Mr. McCullon also has not submitted the required filing fee or an *in forma pauperis* affidavit together with a certified copy of his inmate trust account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C. § 1915(a)(2). Consequently, Mr. McCullon has not properly commenced a civil action.

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.* § 1915A(b).

1 The court cannot conduct the required screening of Mr. McCullon's complaint because he
2 has not signed it. *See* ECF No. 1. Rule 11 of the Federal Rules of Civil Procedure requires that
3 “[e]very pleading, written motion, and other paper . . . be signed by at least one attorney of record
4 in the attorney's name—or by a party personally if the party is unrepresented.” Fed. R. Civ. P.
5 11(a). Because the complaint is not signed, ECF No. 1, it will be disregarded. Within thirty days,
6 Mr. McCullon may file a complaint that is signed. *See* Fed. R. Civ. P. 3 (“A civil action is
7 commenced by filing a complaint with the court.”). He must also submit either a complete
8 application to proceed *in forma pauperis* or pay the \$402 filing fee.

9 Accordingly, it is hereby ORDERED that:

10 1. Mr. McCullon's unsigned complaint, ECF No. 1, is disregarded.

11 2. The Clerk of the Court is directed to send Mr. McCullon a form complaint and
12 application for leave to proceed *in forma pauperis* used in this court.

13 2. Within thirty days of the date of this order, Mr. McCullon shall submit:

14 a. a signed complaint;

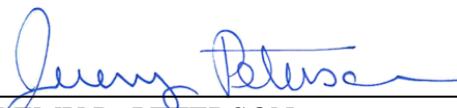
15 b. a completed affidavit in support of his request to proceed *in forma pauperis* on
16 the form provided by the Clerk of Court; and

17 c. a certified copy of his inmate trust account statement for the six-month period
18 immediately preceding the filing of the signed complaint.

19 4. Failure to comply with any part of this order may result in this case being closed.

20 IT IS SO ORDERED.

22 Dated: April 5, 2021


23 _____
24 JEREMY D. PETERSON
25 UNITED STATES MAGISTRATE JUDGE

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